

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-541-T - ORDER NO. 95-1386 ✓
AUGUST 2, 1995

IN RE: Application of James F. Powell, Sr.) ORDER
DBA A.B.C. Taxi, P.O. Box 396,) APPROVING
Conestee, SC 29636, for a Class C) APPLICATION
Certificate of Public Convenience) & GRANTING
and Necessity.) CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of James F. Powell, Sr. DBA A.B.C. Taxi (the Applicant) for a Class C Certificate of Public Convenience and Necessity to render motor passenger service as follows:

FROM: Greenville County, S.C.

RESTRICTED TO: 5 passengers.

On March 1, 1995, the Commission received a protest to the Application. The protest was submitted by Shirley F. Huckaby and Lark W. Creel DBA Best Cab Co. (Best Cab). By Order No. 95-649, dated March 17, 1995, the Commission granted a hearing on this Application and ordered that the letter of protest be treated as a Petition to Intervene thereby making the protesters intervenors in this proceeding.

A public hearing was noticed and held on July 13, 1995, in the Commission's hearing room. The Honorable Rudolph Mitchell, Chairman presided. The Applicant was represented by H. Michael

Spivey, Esquire. The Intervenors appeared pro se. The Commission Staff was represented by Florence P. Belser, Staff Counsel.

The Applicant testified in support of his Application. Mr. Powell testified that he believes that he is fit, willing, and able to appropriately perform taxi services in Greenville County. Mr. Powell stated that he has suitable equipment to perform the services, that he has sufficient insurance, and that he is aware of the Commission's Rules and Regulations governing for-hire motor carrier operations in South Carolina. Mr. Powell also testified that he has worked in the taxi business for approximately twenty (20) years and that a need for taxi service exists in the Conestee area. On cross-examination, Mr. Powell admitted that he had received a ticket for operating without authority but stated that he intends to abide by the Rules and Regulations.

The Intervenors testified that Mr. Powell has been operating in the Conestee area without authority. However, Mr. Creel admitted that there exists sufficient business in the area for these taxi businesses.

This matter is governed by S.C. Code Ann. Regs. 103-133 which states in relevant part:

An application for a certificate ...to operate as a common carrier by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service, provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.

The regulation goes on to set forth criteria for determining

whether or not an applicant is fit, willing, and able to provide the service proposed.

Upon consideration of this matter, taking into account the application filed by the Applicant and the testimony from the hearing, the Commission finds that the Applicant has made an appropriate showing of being fit, willing, and able, and should be granted a Class C Certificate of Public Convenience and Necessity. The Applicant has demonstrated his fitness by (1) showing that there are no outstanding judgments against him and by (2) indicating familiarity with, and expressing a willingness to abide by, the Rules and Regulations governing for-hire motor carriers in South Carolina. Ableness is shown by the Applicant obtaining the necessary equipment and insurance to provide the service for which he is applying, and willingness is demonstrated by the submission of the application seeking the proper authority.

Furthermore, as the Intervenor has admitted that there is sufficient business in the area for the taxi services proposed herein, there has been no showing that the public convenience and necessity is being served in this area. Therefore, the Commission finds and concludes that the granting of the Applicant's application is proper.

IT IS THEREFORE ORDERED THAT:

1. The Application of James F. Powell, Sr. DBA A.B.C. Taxi for a Class C Certificate of Public Convenience and Necessity is hereby approved.

2. The Applicant file the proper license fees and other

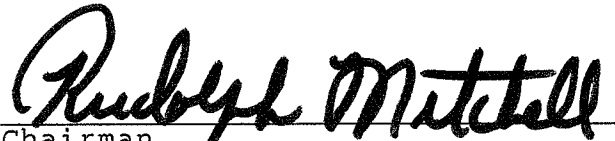
information required by S.C. Code Ann., §58-23-10 et seq. (1976), as amended, and by 26 S.C. Code Ann. Regs.103-100 through Regs.103-280 (1976), as amended, of the Commission's Rules and Regulations for Motor Carriers within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann, §58-23-10, et seq. (1976), as amended, and the applicable provisions of 26 S.C. Code Ann. Regs.103-100 through Regs.103-280 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

4. Prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)